

REMARKS

The enclosed is responsive to the Final Office Action mailed on January 28, 2004, and is being filed pursuant to a Request for Continued Examination (RCE) as provided under 37 CFR 1.114 which has been filed herewith. At the time the Office Action was mailed, claims 1-20 were pending. By way of the present response, the applicant has amended claims 1 and 11 to correct minor typographical errors. No new matter has been added. As such, claims 1-20 remain pending. Applicant respectfully requests reconsideration of the present application and the allowance of claims 1-20.

Independent claims 1 and 11 have been rejected under 35 USC 102(b) as being anticipated by US Patent No. 5,883,621 of Iwamura (hereinafter "Iwamura"). Applicant respectfully disagrees with the rejections.

The Office Action purports that Iwamura discloses a routing algorithm, as claimed in claims 1 and 11, "in the sense that it determines the path in the network to connect the source to destination. There are still plural paths, and the connection from amongst them is at least inherent, in not in fact explicit." (1/28/04 Office Action, para. 16).

Applicant submits that the Office Action misstates the disclosure of Iwamura. Iwamura's algorithm is not a routing algorithm. Rather, it is an algorithm for determining how the "network" of Iwamura is connected and what devices are on the network in order to generate a topology map of the network. (Iwamura, column 4, lines 55-59 and Figure 3). Once the topology of Iwamura is determined, there are no routing choices, in the sense of choosing alternative routes between source and

destination devices on the network, because there is only one physical path between devices, the serial bus (Iwamura, column 3, lines 34-36 and Figure 1).

The applicant poses the question; if Iwamura discloses a plurality of paths between a source and a destination, where in any of Figures 1, 6, 7, 10, 11, 12 or 13 of Iwamura, depicting Iwamura's "network," can the Examiner identify a plurality of paths between any given device and another? The applicant submits that he cannot. Therefore, Iwamura does not disclose "a plurality of possible paths through the network, the path having the connection source and the connection destination as its endpoints," as claimed in claims 1 and 11.

Furthermore, as noted above, the Office Action states, "[t]here are still plural paths, and the connection from amongst them is at least inherent, if not explicit." (1/28/04 Office Action, para. 16) (emphasis added). The Examiner is respectfully reminded that the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. (MPEP Section 2212). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the alleged inherent characteristic necessarily flows from the teachings of the applied prior art." *Id.* (quoting *ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)).

Applicant has pointed out in previous arguments (response to Office Action mailed July 2, 2003, lines 16-22) that the preferred embodiment of a "network" disclosed by Iwamura is the IEEE1394 serial bus, which supports a single path

between source and destination devices. Therefore, the "network" of lwamura does not inherently provide a plurality of paths between a source and a destination.

Therefore, the applicant submits that the rejections of claims 1 and 11 have been overcome and that claims 1 and 11 are allowable over the cited reference. Given that claims 2-10 depend from claim 1, and that claims 12-20 depend from claim 11, applicant submits that claims 2-10 and 12-20 are also allowable.

CONCLUSION

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of this application, the Examiner is invited to contact Richard W. Thill at (408) 720-8300.

Respectfully submitted,
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Dated: 4/26, 2004



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